public policy by the beneficiary have been held void. *Morley* v. *Renoldson*, 2 Hare 570; *In re Morgan*, 26 T. L. R. 398; *Matter of Anonymous*, 80 N. Y. Misc. 10, 141 N. Y. Supp. 700. The ground taken by the court in the principal case is that though the condition might be void if it were to be performed by the beneficiary, as it is to be performed by a third party, the father, and requires no illegal act by the beneficiary, it is binding. But whether a condition is void or not must depend on whether it has a sufficiently strong tendency to cause an act contrary to public policy. *Daboll* v. *Moon*, 88 Conn. 387, 91 Atl. 646; *Matter of Seaman*, 218 N. Y. 77. On principle it would seem immaterial whether the act is to be done by the beneficiary or a third person. *In re Sandbrook*, [1912] 2 Ch. 471. The more difficult question arises: is the act of giving up all control over a son against public policy? An earlier English case has so held. *In re Sandbrook, supra.* And contracts to give up such control have been held voidable and not binding on the parent. *Queen* v. *Barnardo*, 23 Q. B. D. 305; *Swift* v. *Swift*, 12 L. T. R. 435, 34 Beav. 266; *Matter of Scarritt*, 76 Mo. 565. But it would seem as if the public policy involved must rest on the facts of each case — in some instances the separation of father and son must be distinctly beneficial.

UNINCORPORATED SOCIETIES — TRADE UNIONS — SHERMAN ANTI-TRUST LAW. — An action for treble damages under the Sherman Anti-trust Law was brought by the receiver of nine coal mining companies against an unincorporated labor union in the name of the union. *Held*, that the action lies. *Dowd* v. *United Mine Workers of America*, 235 Fed. 1.

For a discussion of this case, see NOTES, p. 263.

WATER LAW — EASEMENTS ON RUNNING WATER — EFFECT OF A CONTRACT INDEFINITE AS TO TIME. — In return for an easement for its pipes in the railroad company's right of way a water company bound itself to supply water from a station hydrant free of charge for an indefinite period. The water company later refused to supply this water. The railroad sues to have its rights declared. *Held*, that the contract created a servitude upon the pipe line and water system. *Southern Pacific Co.* v. *Spring Valley Water Co.*, 159 Pac. 865 (Cal.)

It was the general theory of the common law that running water in its natural state was incapable of classification as property. 2 BLACK. COMM. 18. So, when diverted into an artificial container, and subjected to property classification, water would seem to fall under the head of personalty. *People ex rel. Heyneman* v. *Blake*, 19 Cal. 579; *Bear Lake Co.* v. *Ogden*, 8 Utah 494; *Hagerman, etc. Co.* v. *McMurray*, 113 Pac. 823 (N. M.); *Chockalingani Pillai*, 2 Mad. W. N. 219 (India). See 1 WIEL, WATER RIGHTS IN THE WESTERN STATES, 3 ed., § 35. But the irrigation laws of certain of the western states grew up from a customary usage between irrigators and distributing companies, according to which it was conceived that the irrigator was the real appropriator from the natural stream at the head of the system, and that he had an estate, servitude, or easement in the water system itself. *Wheeler* v. *Northern Colorado Irrigation Co.*, 10 Colo. 582, 17 Pac. 317. The adoption of this rule, known as the Colorado rule, necessarily rejected the common law position. So, in the case which adopted the Colorado rule in California, the *dictum* that water in a pipe is personalty was observed and denied. *Stanislaus Water Co.* v. *Bachman*, 152 Cal. 716, 726, 93 Pac. 858, 862. A later case declared that the Colorado rule was unconstitutional under the California constitution. *Leavitt* v. *Lassen Irrigation Co.*, 157 Cal. 82, 106 Pac. 404. See *San Joaquin, etc. Irrigation Co.* v. *Stanislaus Co.*, 34 Sup. Ct. Rep. 652. But the position on the nature of running water which had been adopted to support the Colorado rule was upheld even when the reason for it was gone. *Copeland* v. *Fairview etc. Co.*, 165

Cal. 148, 154, 131 Pac. 119, 121. Under the theory that the water in the defendant's pipe-line was personalty the plaintiff must have failed in the present action. For a contract indefinite in time by which one party agrees to supply a commodity to another at a fixed price may be terminated by either party on reasonable notice and after a reasonable time. *McCullough-Dalzell etc. Co.* v. *Philadelphia Co.*, 223 Pa. 336, 72 Atl. 633.

WILLS — CONSTRUCTION — FROM WHAT TIME A WILL SPEAKS. — Testator devised to his wife "my house in Urquhart St." Subsequently he bought another house in Urquhart Street, which he owned at the time of his death, and sold the first. A statute provides that "every will shall be construed with reference to the real estate comprised in it to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will." VICTORIA WILLS ACT, 1915, § 22. *Held*, that the testator's wife take the second house. *Watson* v. *Smith*, [1916] Vict. L. R. 540.

The statute is practically identical with § 24 of the English Wills Act and statutes in most of the United States. 1 VICT. c. 26, § 24. See 1 JARMAN, WILLS, 5 Am. ed., 602, n. 4. Its effect is to abolish the common law rule that after-acquired real estate could not be devised. It also raises a strong presumption that the will speaks from the date of the testator's death, but does not change the ultimate question, what was the testator's intention, as expressed by the will, which must of course be his intention at the time he made the will. The exact problem of the principal case has never before arisen, and there has been some difference among text-writers as to what should be its solution. See THEOBALD, WILLS, 7 ed., 130; 1 JARMAN, WILLS, 5 Am. ed., 608. The cases bearing on the point fall into two general groups. If the subject of the devise is such that the testator may well have intended to include any future additions or substitutions, it will be construed as speaking from the date of the testator's death. *Goodlad* v. *Burnett*, 1 K. & J. 341 ("my New 3% Annuities"); *Richmond* v. *Vanhook*, 3 Ired. Eq. (N. C.) 581 ("my chest and all that is in it"). See also *In re Slater*, [1907] 1 Ch. 665, 670. On the other hand, if the subject of the devise is such that the testator must have intended to include only the particular things falling within his description at the time the will was made, then it will be construed as speaking from the time of its execution. *Georgetti* v. *Georgetti*, 18 N. Z. L. R. 849 ("my dwelling house"); *In re Evans*, [1909] 1 Ch. 784 ("my house known as Cross Villa"); *In re Gibson*, 2 Eq. 669 ("my 1000 shares of stock" in the X. Co.); *Amshutz* v. *Miller*, 81 Pa. 212 (a devise to A. for life and after his death to "his widow"). *Cf. Webb* v. *Byng*, 1 K. & J. 580; *Williams* v. *Owen*, 9 L. T. (N. S.) 200; *Pattison* v. *Pattison*, 1 My. & K. 12. But *cf. Castle* v. *Fox*, 11 Eq. 542. In the principal case, the words "my house on Urquhart St." indicate a single, specific thing, and cannot contemplate any future additions or substitutions. It is submitted, therefore, that it falls within that class of cases in which the will should be construed as speaking from the time it was executed.

WILLS — LEGACIES AND DEVISES — DEDUCTION OF EXTINGUISHED NOTE FROM LEGACY UNDER SET-OFF CLAUSE. — A testator made a bequest to his son, from which were to be deducted all notes of the son owned by or held in trust for the testator at the time of his decease. The will next stated that he had already paid to the son certain large sums "which are not included in the indebtedness aforesaid." In a suit by the son for the legacy, the executors introduced a note equal in amount to the legacy. The son offered to prove that prior to the testator's death the note had been extinguished by merger of the mortgage given to secure it with the equity of redemption, and that the payment in return for which such note was given was the only large payment